

 <p style="text-align: center;">STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES</p> <p style="text-align: center;">Policy and Procedure</p>	POLICY AND PROCEDURE NUMBER 10.02.060	PAGE 1 of 3
	EFFECTIVE DATE March 1, 2014	
SUBJECT Foreign Outsourcing in State Contracts for Services	SUPERSEDES 10.02.060	DATED November 2, 2012
CHAPTER Procurement and Property	SECTION Contracting	APPROVED BY Signature on File

PURPOSE

This formalizes the policy and procedure (P&P) of the department regarding foreign outsourcing of construction related professional and non-professional services.

As a result of Administrative Order No. 216, the Department of Transportation and Public Facilities (DOT&PF) has developed the following policy and guidance regarding foreign outsourcing. This policy affects all state construction related solicitations and contracts above \$50,000 for professional and non-professional services (as defined under AS 36.30.990(19) and (21)) issued on, or after October 15, 2004, including alternate and exempt procurements.

NOTE: This policy does not apply to:

- 1) Bids and contracts to construct or repair highways, airports, buildings, docks, harbors, ferries, etc.
- 2) Purchase of "supplies" as defined under AS 36.30.990(24), even though some items purchased may include warranty and/or maintenance services that are provided by vendors located outside the United States.

POLICY

In an effort to ensure that funds spent on state construction related service contracts provide the maximum economic benefit to the State of Alaska and the United States, the State of Alaska shall require all service contracts above \$50,000 to be performed in the United States, unless a waiver is approved by the chief contracts officer.

PROCEDURE

The following clause must be added to the mandatory phrase section of Invitation to Bids (ITBs) and Requests for Proposals (RFPs) for professional and non-professional services:

CERTIFICATION - FOREIGN CONTRACTING

By signature on this solicitation, the offeror certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States.

If the offeror/bidder cannot certify that all work is being performed in the United States, the offeror/bidder must contact the Contracts Officer to request a waiver at least 10 days prior to proposal deadline. For small procurements in excess of \$50,000, it will be at the discretion of the contracts officer to establish the number of days prior to proposal deadline that a waiver request must be received from the offeror/bidder. The offeror must provide with their submission a detailed description of the portion of work being performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with this requirement may cause the state to reject the bid or proposal as non-responsive, or cancel the contract.

The clause must also be included in all informal RFPs, Request for Quotations (RFQs), alternate and exempt procurement solicitations and contracts above \$50,000 for construction related professional and non-professional services. The first sentence of the clause may be changed to, "By signature on this contract..." for negotiated procurements.

If an agency believes that is in the state's best interest to contract with a vendor to provide services from outside the United States, the agency may submit a request for waiver to the chief contracts officer for approval.

The request for waiver must address the following:

1. Why it is in the state's best interest to allow the services to be performed outside the United States, and
2. Why limiting competition to service providers located in the United States could damage the agency's ability to accomplish its public mission.

Requests for exemptions for services to be performed in Canada will be given special consideration. Because of Alaska's extensive border with Canada, our history of cooperation, common cultures and trade relations, it is presumed that provision of services from Canada may be appropriate and in the state's best interests in many circumstances. Requests for services performed in Canada will be afforded special consideration, especially when cost, logistics, proximity, or lack of availability of the services from within the United States or Alaska, are an issue.

The following types of contracts may involve services provided outside the country and do not require a waiver:

Statutory Exemption – AS 36.30.850(31) “Contracts that are to be performed in an area outside the country and that require knowledge of the customs, procedures, rules, or laws of the area”.

Foreign Offices – Agencies with offices located overseas may require foreign contractors to perform work for the State of Alaska.

AUTHORITY

AO 216: The chief procurement officer’s authority under AO 216 has been delegated to the chief contracts officer for construction related services.

IMPLEMENTATION RESPONSIBILITY

All contracting officials and contracting sections within the department and agencies holding DOT&PF delegation of authority for construction related procurement

DISTRIBUTION

All department employees via the DOT&PF website